

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

IN RE:) CASE NO: 16-48803-659
BRIAN NOEL MCKAY) Chapter 13
)
) Response Due: 05/10/2019
)
Debtor)

**TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO MAKE PLAN PAYMENTS
AND NOTICE**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING, THE DATE OF WHICH WILL BE SENT TO YOU IF YOU FILE A RESPONSE. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

COMES NOW Diana S. Daugherty, Standing Chapter 13 Trustee in Bankruptcy, and for her Motion to Dismiss states as follows:

1. That the above-captioned case was filed on December 09, 2016. The debtor's plan proposes to pay the sum of \$242.00 per month.
2. Pursuant to 11 U.S.C. § 1326(a)(1) the debtor's first payment was due on January 08, 2017.
3. That the Trustee has received payments from the debtor over the last nine months as set forth in Exhibit A, attached hereto.
4. That the amount due to the Trustee to date is \$6,776.00 but the total paid into the plan to date is \$6,273.80.
5. That the debtor is \$502.20 in default through April 19, 2019.

WHEREFORE the Trustee prays the Court enter its order dismissing this Chapter 13 case for failure to make plan payments.

Dated: April 19, 2019

MTDPYM--AK

/s/ Diana S. Daugherty

Diana S. Daugherty

Standing Chapter 13 Trustee

P.O. Box 430908

St. Louis, MO 63143

(314) 781-8100 Fax: (314) 781-8881

trust33@ch13stl.com

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was filed electronically on April 19, 2019, with the United States Bankruptcy Court, and has been served on the parties in interest via e-mail by the Court's CM/ECF System as listed on the Court's Electronic Mail Notice List.

I certify that a true and correct copy of the foregoing document was filed electronically with the United States Bankruptcy Court, and has been served by Regular United States Mail Service, first class, postage fully pre-paid, addressed to those parties listed on the Court's Manual Notice List and listed below on April 19, 2019.

BRIAN NOEL MCKAY
2610 MARLYNN DRIVE
IMPERIAL, MO 63052-1912

/s/ Diana S. Daugherty

Diana S. Daugherty, Chapter 13 Trustee

EXHIBIT A**RECEIPTS FROM 07/19/2018 TO 04/19/2019**

Receipt Date	Receipt Amount	Receipt Type
08/03/2018	\$223.40	EMPLOYER PAYROLL DEDUCTION CHECK
09/10/2018	\$335.10	EMPLOYER PAYROLL DEDUCTION CHECK
10/02/2018	\$223.40	EMPLOYER PAYROLL DEDUCTION CHECK
11/02/2018	\$223.40	EMPLOYER PAYROLL DEDUCTION CHECK
12/07/2018	\$223.40	EMPLOYER PAYROLL DEDUCTION CHECK
01/09/2019	\$223.40	EMPLOYER PAYROLL DEDUCTION CHECK
02/28/2019	\$446.80	EMPLOYER PAYROLL DEDUCTION CHECK